CONFERENCE OF THE COMMITTEE ON DISARMAMENT

CCD/342
19 August 1971

ENGLISH
Original: SPANISH

MEXICO

Working paper on some basic facts relating to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and its Additional Protocol II

1. On 6 July 1971, document A/8336 (also distributed under the symbol S/10250), containing the text of the reply from the Supreme Soviet of the USSR to the Senate of the United Mexican States, dated 4 January 1971, "regarding the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America", was circulated at United Nations Headquarters at the request of the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations.

2. The document in question was circulated under the item of the twenty-sixth session's agenda entitled "Status of the implementation of General Assembly resolution 2666 (XXV)[1/] concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)". It would appear from an analysis of its contents that the Soviet Government is still reluctant to comply with the repeated appeals of the General Assembly to the nuclear Powers to sign and ratify without further delay Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco).

3. Since this is a question which the Conference of the Committee on Disarmament might well have to deal with in the not too distant future, the item on nuclear-weapon-free zones being still on its agenda, it is fitting to draw the Committee's attention to some basic facts which must be taken into consideration if the question is to appear in its proper perspective. The purpose of this working paper is to sum up the most important of these basic facts.

1/ The full text of the resolution is reproduced in annex II.

GE.71-19122
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1. Position of the Mexican Senate

4. The reasons which led the Mexican Senate to address an appeal to the legislative bodies of all States for whose signature and ratification the Treaty of Tlatelolco or one of the additional protocols[2/] thereof are open are set out in the last paragraph of the appeal in the following words:

> "From the foregoing it may be seen that the lofty purposes inspiring the Treaty of Tlatelolco have the fervent and total support of the countries of the world and that its provisions have become the expression not of mere aspirations but of a will which is asserting itself at an accelerating pace and with which, we are convinced, no country on earth can fail to associate itself. The ratification and implementation of this instrument by all the countries of Latin America, and of its additional protocols by all nuclear-weapon States or States having territories for which, de jure or de facto, they are internationally responsible - whether or not they are Members of the United Nations - constitute at this time in the world's history, we firmly believe, a moral imperative which mankind insists must be fulfilled in the interests of a creative peace which will be conducive to further achievements on the path of progress and happiness for all peoples".

2. Extent of obligations assumed under the Treaty of Tlatelolco

5. The extent of the obligations assumed under the Treaty of Tlatelolco with a view to implementing the régime of total absence of nuclear weapons established in the Treaty is exactly the same for Mexico as for all other States Parties to the instrument.

6. Article 1 of the Treaty, in which these obligations are specified, reads as follows:

> "1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:
>
> "(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way; and
>
> "(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapon, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.
>
> "2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon."

2/ For the status of the Treaty and its two Protocols on 1 August 1971, see annex I.

3. Extent of obligations assumed under Additional Protocol II

7. Nuclear-weapon States which, by signing and ratifying Additional Protocol II of the Treaty of Tlatelolco become Parties to it, assume the following obligations:

(a) To respect, "in all its express aims and provisions" the "statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in" the Treaty of Tlatelolco;

(b) "Not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies"; and

(c) "Not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty".

8. After expressly mentioning these obligations, the General Assembly, in its resolution 2666 (XXV), adopted on 7 December 1970 by 104 votes to none, affirmed its conviction that they "are entirely in conformity with the general obligations assumed under the Charter of the United Nations, which every Member of the Organization has solemnly undertaken to fulfil in good faith, as set forth in Article 2 of the Charter".

4. Some responsible opinions on the Treaty of Tlatelolco

9. (a) In its resolution 2286 (XXII) of 5 December 1967, the United Nations General Assembly stated that it:

> "Welcomes with special satisfaction the Treaty for the Prohibition of Nuclear Weapons in Latin America, which constitutes an event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security and which at the same time establishes the right of Latin American countries to use nuclear energy for demonstrated peaceful purposes in order to accelerate the economic and social development of their peoples."

(b) In its resolution B of 27 September 1968, the Conference of Non-Nuclear-Weapon States observed that:

> "the Treaty for the Prohibition of Nuclear Weapons in Latin America, also known as the Treaty of Tlatelolco, has already established a nuclear-weapon free zone comprising territories densely populated by man".

(c) In his address delivered at the opening meeting of the first session of the General Conference of the Organization for the Prohibition of Nuclear Weapons in Latin America (OPANAL), the Secretary-General of the United Nations said, inter alia, the following:

"In a world that all too often seems dark and foreboding, the Treaty of Tlatelolco will shine as a beacon light. It is a practical demonstration to all mankind of what can be achieved if sufficient dedication and the requisite political will exist.

"The Treaty of Tlatelolco is unique in several respects.... The Treaty of Tlatelolco is unique in that it applies to an important inhabited area of the earth. It is also unique in that the Agency which is being established at this session will have the advantage of a permanent and effective system of control with a number of novel features. In addition to applying the safeguards system of the International Atomic Energy Agency, the régime under the Treaty also makes provision for special reports and inquiries and, in cases of suspicion, for special inspections. There is embodied in your Treaty a number of aspects of the system known as 'verification-by-challenge', which is one of the more hopeful new concepts introduced into the complicated question of verification and control.

"The Treaty of Tlatelolco preceded the Treaty for the Non-Proliferation of Nuclear Weapons by more than a year and exceeds it in the scope of its prohibitions and its control features. Both Treaties have a similar goal, but the former Treaty goes beyond the latter in also prohibiting the use or threat of use of nuclear weapons in the area of the nuclear-free zone....

"Under the safeguards and guarantees provided by the Treaty of Tlatelolco and by the operations of the Agency, nuclear energy will be used for exclusively peaceful purposes in the countries within the zone and its benefits will be devoted solely towards the economic development and social progress of your people. Thus, the States members of OPANAL will take the lead in demonstrating to the world that nuclear energy will be, as it should be, a great boon to mankind and not the instrument of its doom.

"The States of Latin America, which also include the States of the Caribbean Sea, have laboured hard and built well in erecting the edifice of the Agency for the Prohibition of Nuclear Weapons in Latin America. Perhaps history will record that they, too, 'builded better than they knew'. And now OPANAL has come to life. I am confident that it has the good wishes of the Members of the United Nations. As the Agency proceeds with its work for security, for peace and for progress, I feel sure it will continue to have the encouragement and support of the United Nations. Under the Agency's charter - the Treaty of Tlatelolco - you have provided for close links with the United Nations. It is my hope that in the years to come these links will be forged ever stronger for the mutual benefit of both organizations in their common cause."

(d) On the same occasion, the Director-General of the International Atomic Energy Agency said the following:

"I am honoured to be invited to be present on this important occasion, when for the first time an international body has been created specifically to ensure compliance with a Treaty under which parties to the Treaty solemnly pledge to use nuclear energy exclusively for peaceful purposes, and to keep an entire sub-continent free from nuclear weapons.

"It is also the first meeting of a regional grouping that has accepted the application of safeguards by another organization on their nuclear activities.

"Although the concept of establishing a nuclear-weapon-free zone is not new, the creation of the Agency for the Prohibition of Nuclear Weapons in Latin America is the first tangible realization of such an ideal. With it the aspirations of the people of Latin America for security and the prospect of wider and more productive applications of atomic energy for peaceful purposes has come nearer to fulfilment....

"The Treaty of Tlatelolco might be regarded as the first multilateral treaty in the field of nuclear disarmament which provides for the application of an institutionalized and international control system and as such represents a decisive step forward in the recognition and acceptance of international safeguards."

5. Attitude of the United Nations and the Conference of Non-Nuclear-Weapon States to signature and ratification of Additional Protocol II

10. The General Assembly of the United Nations has adopted three consecutive resolutions, and the Conference of Non-Nuclear-Weapon States one, urging the nuclear Powers to sign and ratify Additional Protocol II of the Treaty of Tlatelolco.

11. The relevant provisions of these resolutions, which were adopted without a single opposing vote, are:

(a) Operative paragraph 4 of resolution 2286 (XXII) of 5 December 1967, in which the General Assembly:

"Invites Powers possessing nuclear weapons to sign and ratify Additional Protocol II of the Treaty as soon as possible";

(b) Paragraphs 1 and 2 of section II of resolution B of 27 September 1968, in which the Conference of Non-Nuclear-Weapon States:

"1. Regrets the fact that not all the nuclear-weapon States have yet signed Additional Protocol II of the Treaty of Tlatelolco;

"2. Urges the nuclear-weapon Powers to comply fully with paragraph 4 of resolution 2286 (XXII), adopted by the United Nations General Assembly on 5 December 1967";

(c) The operative paragraph of resolution 2456 B (XXIII) of 20 December 1968, in which the General Assembly:

"Reiterates the recommendation contained in resolution B of the Conference of Non-Nuclear-Weapon States, concerning the establishment of nuclear-weapon-free zones, and especially the urgent appeal for full compliance by the nuclear-weapon Powers with paragraph 4 of General Assembly resolution 2286 (XXII) of 5 December 1967, in which the Assembly invited Powers possessing nuclear weapons to sign and ratify as soon as possible Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America";

(d) Operative paragraphs 1, 2 and 3 of resolution 2666 (XXV) of 7 December 1970, in which the General Assembly:

"1. Reaffirms the appeals it has addressed to the nuclear-weapon States, in its resolutions 2286 (XXII) and 2456 B (XXIII), to sign and ratify Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) as soon as possible and urges them to avoid further delay in the fulfilment of such appeals;

"2. Notes with satisfaction that one of those States has already signed and ratified the Protocol and that another has signed it and is now actively engaged in the ratification process;

"3. Deplores that not all nuclear-weapon States have as yet signed the Protocol".

6. Need for Additional Protocol II

12. With reference to the question whether the co-operation of the nuclear-weapon Powers in respect of the Treaty of Tlatelolco should take the form of formal acceptance of the commitments specified in Additional Protocol II or merely of unilateral declarations, the General Assembly's appeals mentioned in the previous section of this memorandum show clearly that the Assembly is categorically in favour of the first alternative.

13. To this should be added the fact that, as the General Assembly noted in its resolution 2666 (XXV) of 7 December 1970, the Conference of Non-Nuclear-Weapon States, after expressing the conviction in its resolution B that "for the maximum effectiveness of any treaty establishing a nuclear-weapon-free zone, the co-operation of the nuclear-weapon States is necessary", emphasized, in 1968, that "such co-operation should take the form of commitments likewise undertaken in a formal international instrument which is legally binding, such as a treaty, convention or protocol".

14. It is also pertinent in connexion with this point to quote the very recent statement, of 6 May 1971, made at the Conference of the Committee on Disarmament by the respresentative of the Soviet Union who, referring to the draft treaties which the Committee is considering in connexion with the item on the prohibition of chemical and biological weapons, said at the Committee's 514th meeting:

"On numerous occasions the Soviet delegation has stated that unilateral declarations cannot achieve the same purpose as international agreements. In this respect we fully support the statement made by the representatives of Sweden, Mrs. Myrdal, to the effect that --

'... unilateral decisions can be no substitute for internationally-binding agreements. ... And it is, of course, preferable to arrive at a state of affairs in which we shall have an international treaty so that all renunciations will have the same and, we hold, maximum coverage'."

7. Importance of the signature and ratification of Additional Protocol II

15. The importance which the United Nations attaches to compliance with the repeated appeals by the General Assembly that the nuclear Powers should sign and ratify Additional Protocol II "as soon as possible" is demonstrated both by the fact that in its latest resolution - resolution 2666 (XXV) - the Assembly, in words used in exceptional cases only, urged them "to avoid further delay in the fulfilment of such appeals" and, in particular, by the fact that the resolution itself contains two decisions, those in operative paragraphs 4 and 5, the texts of which read as follows:

"4. Decides to include in the provisional agenda of its twenty-sixth session an item entitled 'Status of the implementation of General Assembly resolution 2666 (XXV) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)';

"5. Requests the Secretary-General to arrange for transmittal of the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-sixth session of any measure adopted by them in order to implement it."

Annex I

STATUS OF THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA (TREATY OF TLATELOLCO) AND ITS TWO ADDITIONAL PROTOCOLS AS AT 1 AUGUST 1971

A. Treaty

1. Signatures

Bolivia	14 February 1967
Chile	14 February 1967
Colombia	14 February 1967
Costa Rica	14 February 1967
Ecuador	14 February 1967
El Salvador	14 February 1967
Guatemala	14 February 1967
Haiti	14 February 1967
Honduras	14 February 1967
Mexico	14 February 1967
Panama	14 February 1967
Peru	14 February 1967
Uruguay	14 February 1967
Venezuela	14 February 1967
Nicaragua	15 February 1967
Paraguay	26 April 1967
Brazil	9 May 1967
Trinidad and Tobago	27 June 1967
Dominican Republic	28 July 1967
Argentina	27 September 1967
Jamaica	26 October 1967
Barbados	18 October 1968

2. Ratifications

*Mexico	20 September 1967
Brazil	29 January 1968
*El Salvador	22 April 1968
*Dominican Republic	14 June 1968
*Uruguay	20 August 1968
*Honduras	23 September 1968
*Nicaragua	24 October 1968
*Ecuador	11 February 1969
*Bolivia	18 February 1969
*Peru	4 March 1969
*Paraguay	19 March 1969
*Barbados	25 April 1969
*Haiti	23 May 1969
*Jamaica	26 June 1969
*Costa Rica	25 August 1969
*Guatemala	6 February 1970
*Venezuela	23 March 1970
Trinidad and Tobago	5 December 1970
*Panama	11 June 1971

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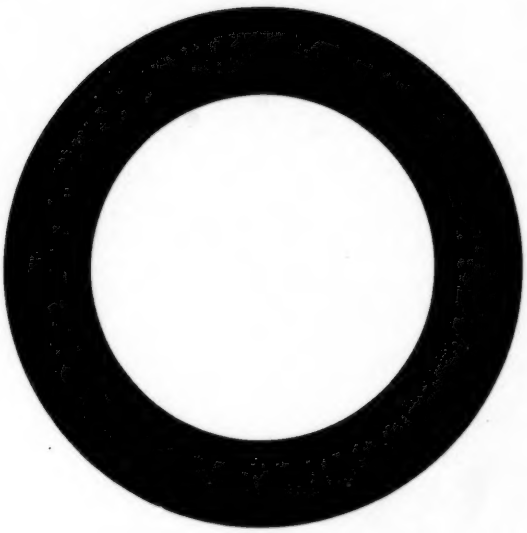
*/ States which deposited at the same time as their respective instruments of ratification a declaration by which, in exercise of the option given them under article 28, paragraph 2 of the Treaty, they waived all of the requirements laid down in paragraph 1 of that article; consequently, so far as they are concerned, the Treaty has already entered into force.

B. Additional Protocol I

States to which the Protocol is open	Signatures	Ratifications
United Kingdom of Great Britain and Northern Ireland	20 December 1967	11 December 1969
Kingdom of the Netherlands	15 March 1968	26 July 1971
United States of America		
France		

C. Additional Protocol II

United Kingdom of Great Britain and Northern Ireland	20 December 1967	11 December 1969
United States of America	1 April 1968	12 May 1971
France		
People's Republic of China		
Union of Soviet Socialist Republics		



Annex II

RESOLUTION 2666 (XXV).

STATUS OF THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 2456 B (XXIII) CONCERNING THE SIGNATURE AND RATIFICATION OF ADDITIONAL PROTOCOL II OF THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA (TREATY OF TLATELOLCO)

The General Assembly,

Recalling its resolution 1911 (XVIII) of 27 November 1963, in which it expressed its confidence that the States that possess nuclear weapons would give their full co-operation for the effective realization of the initiative aimed at the military denuclearization of Latin America,

Recalling also its resolution 2286 (XXII) of 5 December 1967, in which it welcomed with special satisfaction the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and declared that the Treaty constituted an event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security,

Bearing in mind that the Treaty has an Additional Protocol II, which was opened for signature by States possessing nuclear weapons on 14 February 1967,

Noting that the Conference of Non-Nuclear-Weapon States, in its resolution B, expressed the conviction that, for the maximum effectiveness of any treaty establishing a nuclear-weapon-free zone, the co-operation of the nuclear-weapon States is necessary and that such co-operation should take the form of commitments likewise undertaken in a formal international instrument which is legally binding, such as a treaty, convention or protocol,

Considering that accession to that Protocol only entails the following obligations for the nuclear-weapon States:

(a) To respect, in all its express aims and provisions the statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth in the Treaty of Tlatelolco,

(b) Not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies,

(c) Not to use or threaten to use nuclear weapons against the contracting parties of the Treaty,

Convinced that these obligations are entirely in conformity with the general obligations assumed under the Charter of the United Nations, which every Member of the Organization has solemnly undertaken to fulfil in good faith, as set forth in Article 2 of the Charter,

Noting that, despite the appeals that the General Assembly has addressed to them on two occasions, in resolutions 2286 (XXII) of 5 December 1967 and 2456 B (XXIII) of 20 December 1968, and the appeals they have received from the Conference of Non-Nuclear-Weapon States, in resolution B, and from the General Conference of the Agency for the Prohibition of Nuclear Weapons in Latin America, in resolution 1 (I), only two of the States that possess nuclear weapons have so far signed Additional Protocol II and only one has ratified it,*/

Noting also that the Treaty of Tlatelolco, which has been signed by twenty-two Latin American States, is already in force for sixteen of them,**/

Bearing in-mind the repeatedly stated declarations of the nuclear-weapon States to the effect that nuclear-weapon-free zones established on the initiative of the States within the zone should be supported,

Noting that the Treaty of Tlatelolco is the only one it has been possible to conclude for the establishment of such a zone in a densely populated area and that, as a result of the Treaty, there already exists a statute of total absence of nuclear weapons covering an area of 6.6 million square kilometres with a population of approximately 117 million inhabitants,

Noting also that the Agency for the Prohibition of Nuclear Weapons in Latin America has been duly established in conformity with the Treaty and became operative on 2 September 1969,

1. Reaffirms the appeals it has addressed to the nuclear-weapon States, in its resolutions 2286 (XXII) and 2456 B (XXIII), to sign and ratify Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) as soon as possible and urges them to avoid further delay in the fulfilment of such appeals;

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*/ Subsequent to the adoption of this resolution, on 12 August 1971, the United States of America ratified the Protocol, thereby increasing to two the number of nuclear Powers for which the Protocol is in force.

**/ On 11 June 1971, Panama ratified the Treaty, waiving all requirements, so that the States Parties now number 17.

2. Notes with satisfaction that one of those States has already signed and ratified the Protocol and that another has signed it and is now actively engaged in the ratification process;

3. Deplores that not all nuclear-weapon States have as yet signed the Protocol;

4. Decides to include in the provisional agenda of its twenty-sixth session an item entitled "Status of the implementation of General Assembly resolution 2666 (XXV) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)";

5. Requests the Secretary-General to arrange for transmittal of the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-sixth session of any measure adopted by them in order to implement it.